

## SENATE BILL NO. 264

INTRODUCED BY J. BRUEGGEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE MONTANA FACILITY FINANCE AUTHORITY TO FINANCE CERTAIN PROJECTS FOR FOR-PROFIT OR NONPROFIT CORPORATIONS AND ORGANIZATIONS; PROVIDING FOR TAXATION OF THOSE PROJECTS; AMENDING SECTIONS 90-7-102 AND 90-7-104, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 90-7-102, MCA, is amended to read:

**"90-7-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Montana facility finance authority created in 2-15-1815.

(2) "Capital reserve account" means the account established in 90-7-317.

(3) "Costs" means costs allowed under 90-7-103.

(4) "Eligible facility" means any eligible facility as defined in 90-7-104.

(5) (a) "Institution" means any public or private:

(i) nonprofit hospital, corporation, or other organization authorized to provide or operate an eligible facility in this state; ~~or~~

(ii) nonprofit prerelease center, corporation, or other organization authorized to operate a prerelease center in this state; or

(iii) for-profit or nonprofit corporation or other organization authorized to provide for or to operate a project as defined in 90-5-101 OR A FACILITY WITH QUALIFIED SMALL ISSUE BOND FINANCING PURSUANT TO SECTION 144(A) OF THE INTERNAL REVENUE CODE, 26 U.S.C. 144(A).

(b) The term also includes the following, provided that the entity is a nonprofit entity or is controlled by one or more nonprofit entities:

(i) a network of health care providers, regardless of how it is organized;

(ii) an integrated health care delivery system;

(iii) a joint venture or partnership between or among health care providers;

(iv) a purchasing alliance composed of health care providers;

(v) any health insurers and third-party administrators that are participants in a system, network, joint venture, or partnership that provides health services through one or more health facilities.

(6) "Participating institution" means an institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of an eligible facility pursuant to the provisions of this chapter.

(7) "Revenue" means, with respect to eligible facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of the eligible facilities."

**Section 2.** Section 90-7-104, MCA, is amended to read:

**"90-7-104. Eligible facility.** (1) The term "eligible facility" means any structure or building suitable for use as:

(a) a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101;

(b) a public health center, as defined in 7-34-2102;

(c) a facility for persons with disabilities;

(d) a chemical dependency treatment facility;

(e) a nursing school;

(f) a medical teaching facility;

(g) a laboratory;

(h) a dental care facility;

(i) a prerelease center;

(j) a diagnostic, treatment, or surgical center;

(k) a facility providing services for the elderly; ~~or~~

(l) applicable to a project as defined in 90-5-101 OR A FACILITY WITH QUALIFIED SMALL ISSUE BOND FINANCING PURSUANT TO SECTION 144(A) OF THE INTERNAL REVENUE CODE, 26 U.S.C. 144(A); or

~~(m)~~ a structure or facility related to any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ (1)(l) or required or useful for the operation of an eligible facility. These related facilities include supporting service structures and all necessary, useful, and related equipment, furnishings, and appurtenances and include without limitation the acquisition, preparation, and development of all lands and real and personal property necessary or convenient as a site for any of the uses enumerated in subsections (1)(a) through ~~(1)(k)~~ (1)(l).

(2) An eligible facility does not include:

(a) items such as food, fuel, supplies, or other items that are customarily considered as current operating expenses; and

(b) a structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship."

**NEW SECTION. Section 3. Taxation of projects.** (1) Regardless of whether the title to a project is held by the authority or a trustee acting for the authority, if the project is being financed by the authority on behalf of a for-profit corporation or other organization, the project is subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances if the project is leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levies in any year. The project is not subject to taxation in any year during which it is not leased to or held by private interests on both the assessment date and the date the county commissioners set the mill levy.

(2) When personal property owned by the authority or a trustee acting for the authority is taxed under this section and the personal property taxes on the personal property are delinquent, levy by warrant for distraint for collection of the delinquent taxes may be made only on the personal property against which the taxes were levied.

**NEW SECTION. Section 4. Procedure prior to financing certain projects.** (1) In addition to meeting the other requirements contained in this chapter or in state or federal law, the requirements of subsections (2) through (4) must be met before financing is provided for a project described in 90-7-104(1)(l).

(2) The authority shall find that the financing is in the public interest. In order to determine whether or not the financing is in the public interest, a public hearing must be conducted in the following manner:

(a) the city or county in which the project will be located must be notified, and the city and county shall, within 14 days after receipt of the notice, notify the board if it elects to conduct the hearing; or

(b) if a request for a local hearing is not received by the authority within 14 days after the notification in subsection (2)(a), the authority may hold the hearing at a time and place it determines.

(3) Notice of the hearing must be published at least once a week for 2 weeks prior to the date set for the hearing by publication in a newspaper of general circulation in the city or county where the hearing will be held and the project will be located. The notice must include the time and place of the hearing, a general description

1 of the nature and location of the project, the name of the lessee, borrower, or user of the project and the  
2 maximum principal amount of the financing to be provided by the authority.

3 (4) If the hearing required by subsection (2) is conducted by a local government, the governing body of  
4 the local government shall notify the authority of its determination of whether the financing is in the public interest  
5 within 14 days after the completion of the public hearing.

6  
7 NEW SECTION. **Section 5. Codification instruction.** [Sections 3 and 4] are intended to be codified  
8 as an integral part of Title 90, chapter 7, and the provisions of Title 90, chapter 7, apply to [sections 3 and 4].

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10 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2009.

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